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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,386	12/12/2003	John F. Demske	60682	1682
24230	7590	06/27/2005	EXAMINER	
HARSHAW RESEARCH INCORPORATED			FRANCIS, FAYE	
P O BOX 418			ART UNIT	
OTTAWA, KS 66067			PAPER NUMBER	
			3725	

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

5A

Office Action Summary

Application No.

10/735,386

Applicant(s)

DEMSKE ET AL.

Examiner

Faye Francis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) 21-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1,2,7,10,12,13 and 15 is/are rejected.
- 7) ☒ Claim(s) 3-6,8,9 and 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/12/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

1. Claims 21-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/13/05.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 10 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 10 and 13: the phrase "said rollers" in lines 1 and 3 respectively is vague since in claim one which claims 10 and 13 depend on only one roller may be encompassed therein [note the phrase "at least one"].

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 7 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hurst [5,148,995].

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Hurst discloses in Figs 1-7, a portable pill crushing device, comprising: a housing 11, a motor 43 disposed in the housing, at least one roller [rotor means 13A and shaving means 36] rotatably mounted within the housing and drivingly connected to the motor [Fig 7], the roller having an outer surface [ribs 37] for engaging and crushing pills, a pressure plate [pressor foot assembly 12] attached to the housing, the pressure plate having a first position in which a first surface of the pressure plate [V 17] is disposed adjacent to the outer surface of the roller [Fig 8], whereby pills 47 can be crushed between the pressure plate and the roller as the roller is rotatably driven by the motor as recited in claim 1. Additionally, Hurst discloses the pressure plate is rotatably connected to the housing such that the pressure plate can be rotated away from the roller [via hinge 34] as recited in claim 2, a base [Fig 1] as recited in claim 7 and the housing comprises a receptacle formed therein [Fig 7] for receiving a rechargeable battery 45 for supplying power to the motor as recited in claim 12.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hurst in view of Jensen [5,531,386].

Hurst discloses most of the elements of this claim but for a gear train.

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Jensen teaches that it is conventional in a pill-crushing device to use transfer energy provided by the motor 112 to the gear train 113 in order to crush pills. It would have been obvious to one of ordinary skill in the art at the time the invention was made, in view of Jensen to provide the driving mechanism of Hurst device with a gear train in order to improve the driving mechanism.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hurst in view of Schulze [5,863,001].

Hurst discloses most of the elements of this claim but for a plastic enclosure.

Schulze is cited to show desirability, in the relevant art, to have a plastic enclosure [pouch 50] for encasing a pill during crushing. It would have been obvious to provide the device of Hurst with the plastic enclosure as taught by Schulze in order to avoid spillage or contamination.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Allowable Subject Matter

10. Claims 16-20 are allowed.
11. Claims 3-6, 8-9 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
12. Claims 10 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

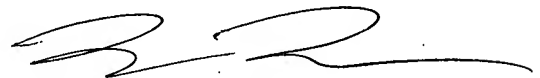
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 571-272-4423. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FF

A handwritten signature in black ink, appearing to read 'Faye Francis', with a long horizontal stroke extending to the right.

Faye Francis